U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

(b)(6)

DATE: OCT 29 2014 Office: TEXAS SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. We will dismiss the appeal.

The petitioner seeks classification as an "alien of extraordinary ability" in the arts, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A). The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

Congress set a very high benchmark for aliens of extraordinary ability by requiring through the statute that the petitioner demonstrate the alien's "sustained national or international acclaim" and present "extensive documentation" of the alien's achievements. *See* section 203(b)(1)(A)(i) of the Act and 8 C.F.R. § 204.5(h)(3). The implementing regulation at 8 C.F.R. § 204.5(h)(3) states that an alien can establish sustained national or international acclaim through evidence of a one-time achievement of a major, internationally recognized award. Absent the receipt of such an award, the regulation outlines ten categories of specific objective evidence. 8 C.F.R. § 204.5(h)(3)(i) through (x). The petitioner must submit qualifying evidence under at least three of the ten regulatory categories of evidence to establish the basic eligibility requirements.

The petitioner's priority date established by the petition filing date is August 29, 2013. On November 4, 2013, the director issued the petitioner a request for evidence (RFE). After receiving the petitioner's response to the RFE, the director issued his decision on May 6, 2014. On appeal, the petitioner submits a brief. For the reasons discussed below, we uphold the director's ultimate determination that the petitioner has not established her eligibility for the classification sought.

I. LAW

Section 203(b) of the Act states, in pertinent part, that:

> (1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):
>
> > (A) Aliens with extraordinary ability. -- An alien is described in this subparagraph if --
> >
> > > (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
> > >
> > > (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

U.S. Citizenship and Immigration Services (USCIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term "extraordinary ability" refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. *Id.*; 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) requires that the petitioner demonstrate the alien's sustained acclaim and the recognition of his or her achievements in the field. Such acclaim must be established either through evidence of a one-time achievement (that is, a major, international recognized award) or through the submission of qualifying evidence under at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In 2010, the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) reviewed the denial of a petition filed under this classification. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). Although the court upheld the decision to deny the petition, the court took issue with the evaluation of evidence submitted to meet a given evidentiary criterion.[1] With respect to the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi), the court concluded that while USCIS may have raised legitimate concerns about the significance of the evidence submitted to meet those two criteria, those concerns should have been raised in a subsequent "final merits determination." *Id.* at 1121-22.

The court stated that the evaluation rested on an improper understanding of the regulations. Instead of parsing the significance of evidence as part of the initial inquiry, the court stated that "the proper procedure is to count the types of evidence provided (which the AAO did)," and if the petitioner did not submit sufficient evidence, "the proper conclusion is that the applicant has failed to satisfy the regulatory requirement of three types of evidence (as the AAO concluded)." *Id.* at 1122 (citing to 8 C.F.R. § 204.5(h)(3)).

Thus, *Kazarian* sets forth a two-part approach where the evidence is first counted and then considered in the context of a final merits determination. In this matter, we will review the evidence under the plain language requirements of each criterion claimed. As the petitioner did not submit qualifying evidence under at least three criteria, the proper conclusion is that the petitioner has not satisfied the regulatory requirement of three types of evidence. *Id.*

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[1] Specifically, the court stated that the AAO had unilaterally imposed novel substantive or evidentiary requirements beyond those set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(iv) and 8 C.F.R. § 204.5(h)(3)(vi).

II. ANALYSIS

A. Evidentiary Criteria[2]

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

This criterion contains several evidentiary elements the petitioner must satisfy. According to the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i), the evidence must establish that the alien is the recipient of the prizes or the awards (in the plural). The clear regulatory language requires that the prizes or the awards are nationally or internationally recognized. The plain language of the regulation also requires the petitioner to submit evidence that each prize or award is one for excellence in the field of endeavor rather than simply for participating in or contributing to an event or to a group. The petitioner must satisfy all of these elements to meet the plain language requirements of this criterion.

The petitioner provided two awards. The director determined that the petitioner did not meet the requirements of this criterion. Specifically, the director determined that the petitioner's evidence was insufficient to establish that the prizes or awards are nationally or internationally recognized for excellence in the field of endeavor. Regarding both the from the and the from the the petitioner provided a copy of each award, information relating to the issuing entities, a letter from each issuing entity, information relating to the award such as the selection or granting criteria, and a second letter from the issuing entity.

On appeal, the petitioner claims that the previously submitted documents from the setting forth the selection criteria sufficiently demonstrated the petitioner's eligibility under this criterion. The petitioner's appellate brief reflects that the section discussing the qualifications and conditions within the selection criteria "clearly indicates that the geographical level of recognition of these awards is national in the United States. According to the criteria, the art pieces must 'have international aesthetical and academic artistic value.'" That the art itself must have an international artistic value is not sufficient to demonstrate that the award itself is nationally or internationally recognized for excellence in the field. National and international recognition results, not from the selection criteria provided by the petitioner, but through the awareness of the accolade in the eyes of the field nationally or internationally. This recognition can occur through specific means. For example, such recognition can occur through media coverage. A national or international level competition may issue lesser awards that merely receive local or regional recognition, which do not meet the plain language requirements of this criterion. The petitioner's evidence relating to the award from the bears the same shortcoming; the award granting criteria do not sufficiently demonstrate that this award is recognized in the field at the national or international level.

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[2] The petitioner does not claim to meet or submit evidence relating to the regulatory categories of evidence not discussed in this decision.

The petitioner did not submit evidence of the national or international recognition of her awards, such as national or widespread coverage of the awards in general or visual arts media. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner's awards be nationally or internationally recognized in the field of endeavor and it is her burden to establish every element of this criterion. In this instance, there is no documentary evidence demonstrating that the preceding awards are recognized beyond the presenting organizations and are therefore commensurate with nationally or internationally recognized prizes or awards for excellence in the field. Accordingly, the petitioner has not established that she meets this criterion.

> *Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.*

This criterion contains three evidentiary requirements the petitioner must satisfy. First, the published material must be about the petitioner and the contents must relate to the petitioner's work in the field under which she seeks classification as an immigrant. The published material must also appear in professional or major trade publications or other major media (in the plural). Professional or major trade publications are intended for experts in the field or in the industry. To qualify as major media, the publication should have significant national or international distribution and be published in a predominant national language. The final requirement is that the petitioner provide each published item's title, date, and author and if the published item is in a foreign language, the petitioner must provide a translation that complies with the requirements found at 8 C.F.R. § 103.2(b)(3). The petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

The petitioner provided three Chinese-language newspaper and magazine articles. The director determined that the petitioner did not meet the requirements of this criterion. Regarding the Chinese-language newspapers, the petitioner provided circulation data originating from The petitioner is presenting these publications as a form of major media in the United States. To be a form of "major" media, the petitioner must establish the circulation statistics are high relative to other similar forms of media. As the petitioner has not provided data for other U.S. major media publications, she has not demonstrated that the Chinese-language newspapers constitute major media. Additionally, the petitioner has also not demonstrated that the Chinese language is sufficiently predominant in the United States such that these U.S. Chinese language publications constitute a form of major media. On appeal, the petitioner does not offer any additional evidence that might demonstrate that these newspapers constitute a form of major media.

are trade publications. However, the petitioner has not presented evidence demonstrating the significance of these publications, which might establish that either is a "major trade publication" in accordance with the regulation at 8 C.F.R. § 204.5(h)(3)(iii). Additionally, the article in lacks the article's publication date, and the article in lacks the article's date and author, all of which are required by the regulation

at 8 C.F.R. § 204.5(h)(3)(iii). Based on the foregoing, the petitioner has not submitted evidence that meets the plain language requirements of this criterion.

> *Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.*

The director discussed the evidence submitted for this criterion and found that the petitioner did not establish her eligibility. On appeal, the petitioner does not contest the director's findings for this criterion or offer additional arguments. Therefore, the petitioner has abandoned her claims under this criterion. *Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005); *Hristov v. Roark*, No. 09–CV–27312011, 2011 WL 4711885 at *1, 9 (E.D.N.Y. Sept. 30, 2011) (the court found the plaintiff's claims to be abandoned as he failed to raise them on appeal to the AAO). Accordingly, the petitioner has not submitted qualifying evidence under this criterion.

> *Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.*

The plain language of this regulatory criterion contains multiple evidentiary elements that the petitioner must satisfy. The first is evidence of the petitioner's contributions (in the plural) in her field. These contributions must have already been realized rather than being potential, future contributions. The petitioner must also demonstrate that her contributions are original. The evidence must establish that the contributions are scientific, scholarly, artistic, athletic, or business-related in nature. The final requirement is that the contributions rise to the level of major significance in the field as a whole, rather than to a project or to an organization. The phrase "major significance" is not superfluous and, thus, it has some meaning. *Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F. 3d 28, 31 (3rd Cir. 1995) *quoted in APWU v. Potter*, 343 F.3d 619, 626 (2nd Cir. Sep 15, 2003). Contributions of major significance connotes that the petitioner's work has significantly impacted the field. *See* 8 C.F.R. § 204.5(h)(3)(v); *see also Visinscaia v. Beers*, --- F. Supp. 2d ---, 2013 WL 6571822, at *8 (D.D.C. Dec. 16, 2013). The petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

On appeal, the petitioner discusses expert letters and her artwork's inclusion in an individualized stamp collection the [redacted] published. The director determined that the petitioner did not meet the requirements of this criterion.

The petitioner submitted a letter from [redacted] the Executive Manager at the [redacted] dated November 30, 2013. Within this letter, Mr. [redacted] indicated that the gallery collected a painting from the petitioner and displayed it within a collection. Mr. [redacted] stated: "The artist is one of the most important representatives of contemporary abstract expressionism . . . The painting won great praised [sic] when it was exhibited in [redacted] New York in July [redacted]." Although Mr. [redacted] asserted that the petitioner is one of the most important representatives of contemporary abstract expressionism, he did not sufficiently describe her importance, nor did he describe her impact within the field. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of

proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

On appeal, the petitioner quotes the support letter from , Professor of Art at . The passage discusses the uniqueness of the petitioner's artwork, a timeline of the petitioner's rise in the calligraphic art field, the petitioner's goal through her artwork, and the "oriental philosophy" having an influence on the petitioner's work. The petitioner's appellate brief states: "Professor comment is very detailed on the beneficiary's contribution of major significance." Merely repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d. Cir. 1990); *Avyr Associates, Inc. v. Meissner*, 1997 WL 188942 at *5 (S.D.N.Y.). Professor Fay closes her letter stating:

> Contemporary art need not be founded on a break with the past philosophy, materials and tools of today can be fused into the practice of art seamlessly. [The petitioner's] talent and integrality in the arts is a strong injection of cultural fusion for the international integration of the arts. I believe [the petitioner] is a serious artist and will contribute to the art industry.

Professor opinion that the petitioner will contribute to the art industry is not sufficient to meet this criterion's requirements. Professor does not identify how the petitioner has already made a significant impact in her field, which is required by this regulatory criterion. A petitioner must establish the elements for the approval of the petition at the time of filing. 8 C.F.R. § 103.2(b)(1), (12). USCIS will not approve a petition if the beneficiary was not qualified on the priority date, but expects to become eligible at a subsequent time. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). This evidence does not establish that, as of the priority date, the petitioner had contributed to her field in a significant manner as required by the regulation.

In his undated letter, , the Director of the indicated the uniqueness of the petitioner's work and stated: " . . . at present, the work begin [sic] to get the attention of collectors from all walks of life and potential appreciation of special installation." It can be expected that an artist claiming to have already made contributions that are of major significance in her field would have already garnered such attention. Director does not describe the manner in which the petitioner's work has already made an impact within her field.

Also on appeal, the petitioner discusses the congratulatory letter confirming their selection of the petitioner's art for an individualized stamp collection. The record contains a copy of the 80¥ stamp and attached label that bears the petitioner's artwork. The label does not bear any value or denomination and the record contains no evidence that the petitioner's artwork appeared on an official Chinese postage stamp. For example, the petitioner did not provide an official number or other evidence of official issuance as a

stamp.[3] The petitioner also did not provide any documentation establishing the Chinese government requirements for private organizations such as the to publish a collection of individualized stamps. Accordingly, the petitioner has not demonstrated that the stamp is indicative of any recognition beyond the regional association that published the stamp. More specific to this criterion, the petitioner has not provided evidence that the inclusion of her work in the stamp collection has had an influential impact within her field. While any art with exposure such as the petitioner's work can be viewed as contributing to the field, she must also demonstrate that her contributions are of major significance. To rise to the level of contributions of major significance, the petitioner's work can be expected to have an influence on similar artists and similar works of art. *See Visinscaia*, 2013 WL 6571822, at *6 (upholding a finding that a ballroom dancer had not met this criterion because she did not demonstrate her impact in the field as a whole).

The Board of Immigration Appeals (BIA) has stated that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing *Matter of M-D-*, 21 I&N Dec. 1180 (BIA 1998); *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998); *Matter of Dass*, 20 I&N Dec. 120 (BIA 1989); see also *Matter of Acosta*, 19 I&N Dec. 211, 218 (BIA 1985)). The Board clarified, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Matter of S-A-*, 22 I&N Dec. at 1332. If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. at 1136.

Vague, solicited letters from local colleagues that do not specifically identify contributions or provide specific examples of how those contributions influenced the field are insufficient. *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009) *aff'd in part* 596 F.3d 1115 (9th Cir. 2010). In 2010, the *Kazarian* court reiterated the conclusion that "letters from physics professors attesting to [the alien's] contributions in the field" was insufficient and was "consistent with the relevant regulatory language." 596 F.3d at 1122. The opinions of experts in the field are not without weight and have been considered above. While such letters can provide important details about the petitioner's skills, they cannot form the cornerstone of a successful extraordinary ability claim. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795; *see also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Matter of Soffici*, 22 I&N Dec. at 165; *Visinscaia*, 2013 WL 6571822, at *8 (concluding that USCIS' decision to give limited weight to uncorroborated assertions from practitioners in the field was not arbitrary and capricious). Thus, the content of the writers' statements and how they became aware of the petitioner's reputation are important considerations. While letters authored in support of the petition have probative

[3] The 15A (2015) indicates that it is the intention of the publisher "to list all postage stamps of the world in the

value, they are most persuasive when supported by evidence that already existed independently in the public sphere. Such independent evidence might include but is not limited to letters from independent industry experts with firsthand knowledge of the petitioner's impact in the field, media coverage, and citations to, sales of, or favorable reviews of the petitioner's book or articles.

As a result, the petitioner has not submitted evidence that meets the plain language requirements of this criterion.

> *Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.*

This criterion contains multiple evidentiary elements the petitioner must satisfy through the submission of evidence. The first is that the petitioner is an author of scholarly articles (in the plural) in her field in which she intends to engage once admitted to the United States as a lawful permanent resident. Scholarly articles generally report on original research or experimentation, involve scholarly investigations, contain substantial footnotes or bibliographies, and are peer reviewed. Additionally, while not required, scholarly articles are oftentimes intended for and written for learned persons in the field who possess a profound knowledge of the field. The second element is that the scholarly articles appear in one of the following: a professional publication, a major trade publication, or in a form of major media. The petitioner must submit evidence satisfying each of these elements to meet the plain language requirements of this criterion.

The petitioner provided several articles and a book of which she is the author. The director determined that the petitioner did not meet the requirements of this criterion based on his determination that the petitioner did not establish that the evidence was scholarly in nature or that the articles were published in one of the requisite publication types.

On appeal, the petitioner contests the director's determination relating to three articles: (1) a 2009 article titled, ' that appeared in the publication; (2) an untitled article from an issue of and (3) an article titled, ' from the book The petitioner asserts within the appellate brief that the articles are scholarly and recounts the topic of the works. Although the petitioner indicates that the director did not provide analysis to support his determination that her articles were not scholarly in nature, she too does not support her assertions that the articles are scholarly with sufficient analysis.

The petitioner's articles were not peer-reviewed and do not contain citing references. The petitioner also did not provide evidence demonstrating each article's intended audience that might establish that she wrote the works for those with a profound knowledge of calligraphic art or, in the

[4] While the translation says ' a review of the article reveals that it discusses the realm of ' In addition, while the petitioner's cover letter references magazine, the cover bears an ISBN code, which is reserved for books or single issue items, not serial publications like magazines. Notably, the bottom of the cover reads '

alternative, that such experts have taken notice of her articles. Furthermore, the petitioner did not provide evidence that establishes any of the publications constitute a professional or a major trade publication or other major media. Without such evidence, the petitioner has not submitted probative evidence that meets the plain language requirements of this criterion.

The petitioner also submitted her authored book titled, The translation accompanying the petitioner's book indicates that the publishing company published the book in December which postdates the petition's filing date of August 29, 2013. A petitioner must establish the elements for the approval of the petition at the time of filing. 8 C.F.R. § 103.2(b)(1), (12). A petition may not be approved if the petitioner was not qualified at the priority date, but expects to become eligible at a subsequent time. *See Matter of Katigbak*, 14 I&N Dec. at 49.

Evidence of the display of the alien's work in the field at artistic exhibitions or showcases.

The director determined the petitioner met the requirements of this criterion. The petitioner has submitted sufficient evidence, to include multiple art exhibits in which her art was displayed, including solo and group exhibits. Accordingly, she has established that she meets this criterion.

B. Summary

The petitioner has not satisfied the antecedent regulatory requirement of three types of evidence.

III. CONCLUSION

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who have risen to the very top of the field of endeavor.

Had the petitioner submitted the requisite evidence under at least three evidentiary categories, in accordance with the *Kazarian* opinion, the next step would be a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor" and (2) "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." 8 C.F.R. § 204.5(h)(2) and (3); *see also Kazarian*, 596 F.3d at 1119-20. While we conclude that the evidence is not indicative of a level of expertise consistent with the small percentage at the very top of the field or sustained national or international acclaim, we need not explain that conclusion in a final merits

determination.[7] Rather, the proper conclusion is that the petitioner has not satisfied the antecedent regulatory requirement of three types of evidence. *Id.* at 1122.

The petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.

[7] The AAO maintains de novo review of all questions of fact and law. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). In any future proceeding, the AAO maintains the jurisdiction to conduct a final merits determination as the office that made the last decision in this matter. 8 C.F.R. § 103.5(a)(1)(ii). *See also* section 103(a)(1) of the Act; section 204(b) of the Act; DHS Delegation Number 0150.1 (effective March 1, 2003); 8 C.F.R. § 2.1 (2003); 8 C.F.R. § 103.1(f)(3)(iii) (2003); *Matter of Aurelio*, 19 I&N Dec. 458, 460 (BIA 1987) (holding that legacy INS, now USCIS, is the sole authority with the jurisdiction to decide visa petitions).